

Donna Sullivan

<p style="text-align: right;">Page 122</p> <p>1 operating the company at the time, what they would 2 have wanted, but obviously if an agent thinks there 3 is some risk or exposure to the company, I'm sure 4 they would like to be aware of what the problem is. 5 Q. Would this have presented some risk or 6 exposure to the company? 7 A. Only to the extent -- I think to the 8 extent that the attorney has a practice of not 9 recorded documents because I understand it was quite 10 a number of documents, they may choose not to do 11 business with that attorney if that's the way they're 12 operating. That goes beyond what other issue might 13 be involved behind the scenes. Just the mere fact of 14 not recording documents for that length of time 15 exposes the company to risk. 16 Q. When you say they may not have wanted -- 17 A. Well, I mean the company didn't want to 18 be exposed to that type of unnecessary risk. 19 Q. But you said they wouldn't want them to 20 deal with that attorney. When you say "they," is 21 that the company or Coastal? 22 A. The company would not want its agents 23 working with an attorney who is not going to promptly 24 record and expose the company, the underwriter, to 25 unnecessary risk.</p>	<p style="text-align: right;">Page 124</p> <p>1 company if it had uncovered that? 2 A. If it had uncovered that there were a 3 bunch of unrecorded documents, would that have posed 4 an issue to the company? 5 Q. Although commitments had been issued. 6 A. I guess that's where we are today. 7 Right? 8 Q. So would it have been an issue for the 9 company? 10 A. Well, you know, we would have wanted 11 them on record if we thought we're going to have 12 responsibility. Obviously we issued commitments. It 13 would be best to get the documents on record. 14 Q. I'm handing you what's marked as 15 Nations-11 and 12. Nations-11 is the deed between 16 Citigroup to Cristo on July 25, 1996 and Nations-12 17 is the deed between Cristo and Leodis on July 25, 18 1996. And I believe Nations-11 matches up -- I know 19 you have a lot of documents in front of you. 20 Nations-11 matches with Nations-7. And it appears 21 that they're the same document except for the seven, 22 Coastal has its stamp at the top and that it's 23 recorded. 24 I guess my question is: Do you think -- 25 do you know if Coastal Title had any conversations</p>
<p style="text-align: right;">Page 123</p> <p>1 Q. If the company had audited Coastal in 2 1996 or 1997 would it have uncovered -- would it have 3 uncovered these documents? 4 A. The documents themselves? I don't know 5 when they were in Coastal's possession. They got 6 them in '97 I gather because that's when they were 7 recorded, but, you know, if they were examining five 8 or ten random files, would they have known that all 9 these documents were unrecorded in a different stack 10 in the office? I don't know. 11 Q. Okay. 12 A. That seems, you know, unlikely I guess. 13 (Nations-11, Deed dated July 25, 1996, 14 is received and marked for identification.) 15 (D-12, Deed dated July 25, 1996, is 16 received and marked for identification.) 17 Q. If the company had done an audit of -- 18 A. I don't have it yet. 19 Q. I am not asking a question about -- I 20 know that. If the company had done an audit of 21 Coastal in '96 or in '97 would it have uncovered that 22 there were these unrecorded deeds and mortgages for 23 which commitments had already been issued? 24 A. I don't know. 25 Q. Would that have posed an issue for the</p>	<p style="text-align: right;">Page 125</p> <p>1 with John Lanahan about whether or not it should be 2 recording this deed? 3 A. I do not. 4 Q. And then on Nations-12 -- Nations-12 5 matches up I believe with Nations-8, and my question 6 is: Do you know if Coastal had any conversations 7 with Richard Pepsny or Stanley Yacker about recording 8 deeds? 9 A. I'm sure there was a conversation with 10 Stanley Yacker about recording deeds. I'm not privy 11 to what it was or when it was, but I'm sure in the 12 context of Coastal obtaining these documents to 13 record from Mr. Yacker they must have had some 14 discussion of it. 15 (Nations-13, Deed dated July 25, 1996, 16 is received and marked for identification.) 17 (Nations-14, Deed dated July 25, 1996, 18 is received and marked for identification.) 19 Q. I'm handing you what is marked as 20 Nations-13 and 14. Can you tell any differences 21 between these two deeds? 22 A. Well, one has recording information. 23 I'm looking at -- 24 Q. It appears that Nations-14 was recorded. 25 Is that right?</p>

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<p style="text-align: right;">Page 126</p> <p>1 A. Correct.</p> <p>2 Q. If this deed had been filed or recorded</p> <p>3 in advance of the other deeds that I've shown you</p> <p>4 would that have placed a lender at risk of not being</p> <p>5 in a first lien position?</p> <p>6 A. Let's see.</p> <p>7 MR. HAYES: Let me make sure I</p> <p>8 understand the question. If Nations-13 or 14 was</p> <p>9 recorded prior to the deed into Leodis? Is that the</p> <p>10 hypothetical?</p> <p>11 MR. MEE: That's the hypothetical.</p> <p>12 A. I'm sorry. Repeat again.</p> <p>13 Q. If this deed were recorded in advance of</p> <p>14 the other two deeds that I've shown you, the one</p> <p>15 going into Citicorp and the one going into Cristo,</p> <p>16 would that pose a problem for any lender, to Leodis,</p> <p>17 as far as being in a first lien position?</p> <p>18 A. I'm trying to understand. It's going to</p> <p>19 be out of the chain of title. Right?</p> <p>20 Q. Yes.</p> <p>21 A. So I don't know if anybody can actually</p> <p>22 pick it up in a title search because it's out of the</p> <p>23 chain of title.</p> <p>24 Q. What kind of risks are there with</p> <p>25 filing -- recording three deeds on the same property</p>	<p style="text-align: right;">Page 128</p> <p>1 Insurance Company Owner's Information Sheet, is</p> <p>2 received and marked for identification.)</p> <p>3 Q. I'm handing you what's been marked as</p> <p>4 Nations-16. Wait a second. Hang on.</p> <p>5 (Nations-17, Invoice dated 7/10/96, is</p> <p>6 received and marked for identification.)</p> <p>7 Q. Instead I'm going to hand you what's</p> <p>8 been marked as Nations-17. Can you tell me what this</p> <p>9 document is?</p> <p>10 A. States that it's an invoice.</p> <p>11 Q. From?</p> <p>12 A. From Coastal Title to Richard Pepsny.</p> <p>13 Q. What is the invoice for?</p> <p>14 A. Well, it recites the same title</p> <p>15 commitment that the prior exhibits refer to and it is</p> <p>16 an invoice for premium and costs associated with the</p> <p>17 insuring property at 104 West End Avenue.</p> <p>18 Q. And can you tell whether or not the date</p> <p>19 up at the top, if that's the date that this invoice</p> <p>20 was issued?</p> <p>21 A. It's apparently the date it was printed.</p> <p>22 I don't know when it was sent out by the agent.</p> <p>23 Q. And -- okay.</p> <p>24 MR. HAYES: For the record purposes</p> <p>25 we've marked this document. You only asked about the</p>
<p style="text-align: right;">Page 127</p> <p>1 on the same day?</p> <p>2 A. Well, obviously if they're recorded in</p> <p>3 an incorrect order it can mess up your chain of</p> <p>4 title, but certainly there have been consecutive</p> <p>5 deeds recorded on the same day. We try to instruct</p> <p>6 the clerk to get them in the right order.</p> <p>7 (Nations-15, Coastal Title Agency</p> <p>8 Document, is received and marked for identification.)</p> <p>9 Q. I've handed you -- let me ask you:</p> <p>10 Going back to Nations-14 real quick, before we get to</p> <p>11 Nations-15, going back to Nations-14, if this was</p> <p>12 filed -- if all of these deeds were filed in order</p> <p>13 would Nations-14 affect a lien holder's interest in</p> <p>14 the property?</p> <p>15 A. If the lien holder is recorded after</p> <p>16 this document? And depending on who executed the</p> <p>17 mortgage it could.</p> <p>18 Q. Moving on to Nations-15, which is --</p> <p>19 should just be a single page, 3594, CTC. I think you</p> <p>20 may have two pages.</p> <p>21 A. I do have two page but they're the same.</p> <p>22 Q. Sorry. What is this document?</p> <p>23 A. I don't know what the document is.</p> <p>24 Q. Okay.</p> <p>25 (Nations-16, Fidelity National Title</p>	<p style="text-align: right;">Page 129</p> <p>1 first page. Confirm that the second page isn't a</p> <p>2 part of the invoice.</p> <p>3 A. Right.</p> <p>4 MR. MEE: It's not part of the invoice?</p> <p>5 A. No.</p> <p>6 Q. What does 797 pertain to?</p> <p>7 A. It's a -- it looks like a notice -- a</p> <p>8 disclosure statement that is sent out with each</p> <p>9 commitment to the attorney that requests it for the</p> <p>10 benefit of the borrower advising them that the</p> <p>11 attorney that they retained is not an agent of the</p> <p>12 company although the language speaks for itself.</p> <p>13 Q. Why don't we just mark it as 17B. I</p> <p>14 will put a little sticker since we had some testimony</p> <p>15 on it.</p> <p>16 (Nations-17B, Document Entitled,</p> <p>17 Important Notice and Disclosure, is received and</p> <p>18 marked for identification.)</p> <p>19 Q. I'm handing you what's been marked as</p> <p>20 Nations-16. It looks to be a -- well, an owner's</p> <p>21 policy from Fidelity. Can you tell whether or not</p> <p>22 this is on the property that we have been discussing?</p> <p>23 A. It appears to be, yes.</p> <p>24 Q. What is the difference between an</p> <p>25 owner's policy and a loan policy?</p>

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<p style="text-align: right;">Page 130</p> <p>1 A. An owner's policy is insuring the owner 2 owns the property subject to certain items in 3 Schedule B, and the loan policy is insuring the 4 mortgage as a lien on the property. 5 Q. Okay. 6 (Nations-18, Loan Policy of Title 7 Insurance, is received and marked for 8 identification.) 9 Q. I'm handing you what's been marked as 10 Nations-18, which is a Fidelity Loan Policy. Can you 11 tell whether or not this is issued on the same 12 property that we have been discussing? 13 A. Yes, it appears to be on the same 14 property. 15 Q. Who is the name of the insured? 16 A. National Home Funding, Inc., its 17 successors and/or assigns as their interests may 18 appear. 19 Q. And why is it that Fidelity was issuing 20 this loan policy as opposed to Nations? 21 A. I'm not sure I can answer that, although 22 this policy was issued in '97 after Nations signed 23 its agency agreement to Fidelity. 24 Q. How can you tell it was issued in '97? 25 A. Wasn't the recording date in '97? I'm</p>	<p style="text-align: right;">Page 132</p> <p>1 same? 2 A. I'm going to say no. 3 Q. Can you tell me whether or not they were 4 issued on the same day? 5 A. I probably can't tell that they were 6 issued on the same day because I don't know when they 7 were issued. 8 Q. Well, looking at FY 801 compared to CTC 9 3416 both have the same effective dates at the top, 10 do they not? 11 A. Yes. 12 Q. So wouldn't Coastal have been aware as 13 of May 21, 1996 that the Schedule B requirements 14 should have been the same on both of these 15 commitments? 16 A. I don't know how to answer that because 17 I think they were attempting to prepare these for two 18 separate transactions on the same property. 19 Q. If they were preparing these for two 20 separate transactions, why wouldn't the A have still 21 listed all of the requirements -- why wouldn't the 22 Schedule B for Nations-19 have listed the same 23 requirements? 24 A. I don't know. 25 Q. Also going back to FY 801, and CTC 3416,</p>
<p style="text-align: right;">Page 131</p> <p>1 sorry. It was '96. May of '96. 2 MS. WAGNER: It was recorded in '97. 3 Right. 4 Q. The date of the policy, FY 759, says May 5 21, 1996. 6 A. I'm not sure why it says that. 7 MR. HAYES: You don't have to guess. If 8 you don't know the answer to a question simply say 9 you don't know. 10 Q. Why is there a discrepancy between the 11 date of the policy and paragraph four on page 759? 12 A. I don't know. 13 (Nations-19, Commitment for Title 14 Insurance, is received and marked for 15 identification.) 16 Q. I'm just going to ask you to compare 17 what's been marked as Nations-19 with what was marked 18 as Nations-9, and specifically if you turn to page -- 19 on Nations-19 if you turn to page FY 803 and looking 20 back at Nations-9, which is at page 3418, these are 21 the Schedule B requirements, which were -- I believe 22 you testified which were drafted by Coastal Title 23 Agency. Is that correct? 24 A. Yes. 25 Q. Can you explain why these are not the</p>	<p style="text-align: right;">Page 133</p> <p>1 at paragraph two for 801 it says: Title to the fee 2 simple estate or interest in the land described or 3 referred to in this commitment is at the effective 4 date hereof vested in Cristo Property Management by 5 deed from Bristol dated, and there's a blank, 6 recorded, and there's another blank, in the Monmouth 7 County Clerk's Register's Office in deed book page, 8 they're all blank as well. But if you compare that 9 with CTC 3416, it says that as of the effective date 10 hereof it's vested in Marjorie Hawk by deed from 11 Primere Loiseau and Michele Loiseau, husband and 12 wife, dated March 5, 1990, etcetera, etcetera. 13 Wasn't Coastal aware at the time that it issued the 14 commitment marked Nations-19 that there was no deed 15 or that this fee simple was not actually vested in 16 Cristo property? 17 MR. HAYES: I object to the form of the 18 question. You can answer. 19 A. I think they were aware that there was 20 no deed recorded into Cristo, yes, as of the date 21 they could search to. 22 Q. You stated earlier that the way that the 23 title agent would prepare these documents, they would 24 do the title search and then they would have the 25 documents to look at when they were preparing these</p>

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<p>1 documents. If they prepared these two documents, 2 these two commitments on the same date with all of 3 those title searches, which one is accurate? 4 MR. HAYES: Object to the form. 5 A. Well, if you're saying as of the 6 effective date who is in title of record, then the 7 first one with the book and page had its -- Marjorie 8 Hawk had her deed of record as of the effective date 9 of the commitment. 10 Q. Then how could Nations' agent have 11 issued a commitment stating that another entity was 12 in title? 13 A. I don't know what the basis for them 14 doing that is. They're anticipating that either 15 there's already been a deed executed that's about to 16 be recorded or that there is a deed about to be 17 executed and recorded. I assume, but I can't speak 18 for what they knew or how they -- why they did it. 19 Q. Who is relying on the commitment? Who 20 is this sent to? 21 A. This commitment is sent to the attorney 22 for the borrower, and I assume forwarded a copy to 23 the lender. 24 Q. So is there -- 25 A. National Home Funding.</p>	<p>1 Sheriff's deed coming back but hasn't been recorded 2 yet and you have a subsequent sale by the grantee of 3 the sheriff -- from the sheriff, so I've seen -- I 4 don't know that they advocate doing it this way but I 5 don't know that they bar it either. 6 Q. Well, I guess that's -- my question is: 7 What is the -- what would be the company's position 8 on this type of activity? 9 A. Well, I think there were subsequent HUD 10 regulations that that memo went out and if it 11 violates that we obviously would say no. If it looks 12 like it's some type of flip transaction -- 13 Q. Do you think this would have violated 14 some sort of HUD-1 requirements -- 15 MR. HAYES: In '96? 16 Q. -- in '96 or '97? 17 MR. HAYES: Stop for a minute. Number 18 one, she didn't say HUD-1. When she says HUD she's 19 talking about Housing and Urban Development. And, 20 number two, are you asking her did it violate HUD as 21 of '96, or are you asking whether it violated the new 22 regulation that she testified about previously or 23 both? 24 Q. Let's start with both. 25 A. I think the regulation came into effect</p>
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<p>1 Q. I'm sorry. Is there any legitimate 2 basis for preparing two separate commitments with 3 different Schedule B requirements and different 4 descriptions of who is in title? 5 A. I've certainly seen about-to-be-recorded 6 vesting information. I think it's more customary to 7 reflect that in the Schedule B requirements to 8 require that that deed into that entity be recorded 9 and then the next deed. Does that answer your 10 question? I'm not sure. 11 Q. If Nations today saw something like this 12 being issued, what would it say to its title agent? 13 A. If Nations existed today I think there 14 are probably underwriting memoranda that deal with 15 flip transactions and what their requirements would 16 be and what -- I'm not sure if it requires 17 underwriting counsel's approval or just instructs 18 them, you know, what they can and cannot insure. 19 Q. So would this not be appropriate under 20 those underwriting memoranda? 21 A. I haven't reviewed the current ones to 22 know that. I know that sometimes these -- this 23 vesting information is set up in the context of a 24 foreclosure. I think maybe one of the earlier 25 commitments did that where, you know, there's a</p>	<p>1 after '96, '97, much later, and I think there are 2 certain underwriting or reporting requirements. If 3 there are sales within six months there certain 4 requirements that the agent would have to meet. 5 Q. As far as drafting commitments? Does 6 that pertain to drafting commitments? 7 A. I don't know of any actual drafting 8 requirements. I guess that's my answer to that. 9 Q. Does the company ever have requirements 10 as far as their draft -- as far as drafting 11 commitments is concerned? 12 A. They might have language as to what type 13 of exception to raise and certainly since this, they 14 have some requirements with respect to what would go 15 into a commitment and they may have something for 16 this. I just am not familiar with it off the top of 17 my head. 18 (Nations-20, Document from Current 19 Status, Inc., is received and marked for 20 identification.) 21 (Nations-21, Document from Current 22 Status, Inc., is received and marked for 23 identification.) 24 Q. I'm going to hand you what's marked 25 Nations-20, which is a -- looks to be a form from</p>

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<p style="text-align: right;">Page 138</p> <p>1 Current Status, Inc., and Nations-21, which is 2 another form from Current Status, Inc. Can you tell 3 what these documents are? 4 A. Let's see. 20 looks like a tax 5 assessment search and -- 6 Q. What would be the purpose of that? 7 A. To determine what tax liens are on the 8 property and whether or not there are any confirmed 9 or unconfirmed assessments that will be liens on the 10 property. 11 Q. Would it also tell whoever ordered this 12 who owned the property? 13 A. It would tell who is reflected as the 14 owner on the assessment record of the town. 15 Q. And what about Nations-21? 16 A. Looks like it's the same -- perhaps it's 17 just an updated search for the same property. 18 Q. Can you tell who ordered Nations-21? 19 A. Well, it says Coastal Title Agency at 20 the top of this search. The other search says 21 Progressive Title. So I don't know if they were 22 ordered by different title agents. 23 Q. And from Nations-21 can you tell who was 24 the assessed owner as of July 10, 1996? 25 A. Recites Marjorie Hawk.</p>	<p style="text-align: right;">Page 140</p> <p>1 A. Current Status. 2 (Nations-22, Copy of Check from Stanley 3 Yacker, is received and marked for identification.) 4 Q. I am handing you what's been marked as 5 Nations-22. It appears to be a check from Stanley 6 Yacker to Coastal Title Agency. Can you decipher 7 what the amount is on this check? 8 A. It's difficult to read but I think it's 9 974. I'm not sure. 10 Q. Do you know what that payment would have 11 reflected? 12 A. What that payment was for? I can't tell 13 from the check. I don't know if it has a reference. 14 It's illegible to me. 15 Q. I'm going to represent to you that this 16 check was found in Fidelity's files. Down at the 17 bottom it's marked FY 000966 and that Bates number 18 correlates with the property that we have been 19 discussing. Can you take a look at Nations-17. Here 20 you go. Based on this invoice dated July 10, 1996, 21 can you now tell me why Stan Yacker was paying 22 Coastal \$974? 23 A. It's the same amount that is billed on 24 the invoice for this transaction. 25 Q. What does that suggest?</p>
<p style="text-align: right;">Page 139</p> <p>1 Q. And you can tell that as of that date 2 because at the bottom it says: Current Status 3 guarantees that the above information accurately 4 reflects the contents of the public record as of 5 7/10/96? 6 A. Yes. 7 Q. Do you know if title agents regularly 8 request these types of documents? 9 A. They normally request a tax assessment 10 search to be -- because it's part of the information 11 put in the title commitment. 12 Q. So would it appear to you that as of 13 July 10, 1996 that Coastal was aware that the 14 assessed owner was Marjorie Hawk? 15 A. I don't think they refer to the tax 16 assessment search. I mean, I guess they could read 17 that. That's not the purpose. The purpose is 18 obviously to see what liens are on the property. 19 They're probably more concerned with the county 20 recording records as to who is in title than the 21 assessor's records, but certainly if they notice that 22 there was a difference they might look into that. 23 Q. Well, can you tell me whether or not 24 this document was prepared by Coastal Title or 25 Current Status?</p>	<p style="text-align: right;">Page 141</p> <p>1 A. It suggests that he was trying to pay 2 the invoice. 3 (Nations-23, Letter dated July 17, 1996, 4 is received and marked for identification.) 5 Q. I'm handing you what's been marked as 6 Nations-23, which is a letter dated July 17, 1996 7 from Stanley Yacker to National Home Funding. Have 8 you seen letters like this before in your search of 9 the -- in search of Nations' files or Coastal's 10 files? 11 A. I don't recall seeing a letter like 12 this. 13 Q. I think Yacker had testified that -- if 14 you take a moment to read the -- I will read it into 15 the record. "Please be advised that I am holding in 16 escrow a check in the amount of \$12,500 pertaining to 17 the above matter. Please be advised that five 18 percent is borrower's own funds and five percent is a 19 gift from relatives." 20 The subject property which this letter 21 is referring is the George Leodis matter, 104 West 22 End Avenue. Yacker testified that when he was -- he 23 never actually was holding anything in escrow. He 24 was just holding a check for \$12,500. Does this 25 suggest to you that there was any fraud by the</p>

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<p style="text-align: right;">Page 142</p> <p>1 closing attorney?</p> <p>2 MR. KOTT: Objection to form.</p> <p>3 MR. HAYES: Objection.</p> <p>4 A. I don't know.</p> <p>5 Q. If he was just holding a check and not</p> <p>6 holding anything in escrow, does that impact your</p> <p>7 answer?</p> <p>8 A. I would assume an attorney would deposit</p> <p>9 a check being held in escrow. I don't know what the</p> <p>10 purpose of the check is from this letter. I don't</p> <p>11 know if it's a deposit. I don't know what the</p> <p>12 purpose of, you know, holding this money was.</p> <p>13 Q. Well, if the closing attorney</p> <p>14 represented to the lender that he was holding a check</p> <p>15 in escrow but in fact he was not holding a check in</p> <p>16 escrow, would that suggest that the closing attorney</p> <p>17 was engaged in any kind of fraud?</p> <p>18 MR. HAYES: Same objection.</p> <p>19 A. I don't know if -- I can't tell if he's</p> <p>20 engaged in fraud.</p> <p>21 Q. I'm just going to refer you back to</p> <p>22 Nations-6 real quick, which is the July 10 letter.</p> <p>23 Could you tell me what -- under paragraph one what</p> <p>24 part B means?</p> <p>25 A. The collection and payment of funds due</p>	<p style="text-align: right;">Page 144</p> <p>1 to the recording of documents within 24 hours.</p> <p>2 Q. On the next page it states that this</p> <p>3 loan must be in first lien position. Name of the</p> <p>4 insurance is in National Home Funding's name, its</p> <p>5 successors and/or assigns, and it states that: We</p> <p>6 require full ALTA, ALTA policy 1992 form delivered</p> <p>7 within 30 days of closing.</p> <p>8 Do you know whether or not this --</p> <p>9 whether or not the policy -- what number is it? The</p> <p>10 policy marked Nations-18 was delivered to Walsh</p> <p>11 within 30 days of closing?</p> <p>12 A. That was the loan policy? I don't know</p> <p>13 the delivery date of the loan policy.</p> <p>14 Q. If these documents were filed in May of</p> <p>15 1997, can you tell based on that when the loan policy</p> <p>16 would have been issued?</p> <p>17 A. Normally I would have thought they</p> <p>18 waited for the re -- documents to be recorded. Well,</p> <p>19 actually the policy did reflect the recording date in</p> <p>20 the policy even though it wasn't listed as the</p> <p>21 effective date, so it did recite '97 in the actual</p> <p>22 text I think. So I have to say that it appears that</p> <p>23 it could not have been delivered within 30 days.</p> <p>24 Q. I'm handing you what's previously been</p> <p>25 marked as Yacker-7 and Yacker-8. Have you seen these</p>
<p style="text-align: right;">Page 143</p> <p>1 you, I assume refers to funds that are actually due</p> <p>2 back to the lender in connection with the closing</p> <p>3 according to the closing instructions.</p> <p>4 (Nations-24, Closing Instructions by</p> <p>5 Walsh Securities, is received and marked for</p> <p>6 identification.)</p> <p>7 Q. I've handed you what's been marked as</p> <p>8 Nations-24, which are Walsh Securities closing</p> <p>9 instructions, closing date of July 25, 1996 sent to</p> <p>10 Stanley Yacker. The name of the borrower is George</p> <p>11 Leodis. Halfway down the page you will see it</p> <p>12 states: "Return all original documents referenced</p> <p>13 above and certified copies of those documents that</p> <p>14 are to be recorded with in 24 hours after the closing</p> <p>15 to Walsh Securities."</p> <p>16 Having looked at all these documents can</p> <p>17 you tell whether or not they were recorded within 24</p> <p>18 hours of closing?</p> <p>19 MR. HAYES: I am going to object to your</p> <p>20 characterization of what that means. You can answer,</p> <p>21 Miss Sullivan.</p> <p>22 A. I think it's asking that return of the</p> <p>23 documents and certified copies of those documents</p> <p>24 that are going to be recorded have to be returned to</p> <p>25 Walsh within 24 hours. I don't think it is referring</p>	<p style="text-align: right;">Page 145</p> <p>1 memorandums before -- these memoranda before.</p> <p>2 A. I don't believe so.</p> <p>3 Q. And it states that -- Yacker-7 it</p> <p>4 states: "The following is a list of properties and</p> <p>5 the amounts wired into your account yesterday. If</p> <p>6 you have any questions please call me, Rick."</p> <p>7 And then if you scroll down towards the</p> <p>8 bottom there you will see that 104 West End, which is</p> <p>9 the property we have been discussing, is identified</p> <p>10 and it looks like Yacker was paying into Pepsny's</p> <p>11 account \$40,908.89. Do you know what that payment</p> <p>12 would have been for?</p> <p>13 A. I don't.</p> <p>14 Q. And then on Yacker-8 it's a similar</p> <p>15 memo. This one to Gary Grieser from Yacker's office</p> <p>16 stating: "Gary, the following is a list of</p> <p>17 properties and the amounts wired into your account</p> <p>18 yesterday. If you have any questions please call</p> <p>19 me."</p> <p>20 And then you will see the second one</p> <p>21 down is 104 West End, which is the property we have</p> <p>22 been discussing. And it looks as though Yacker wired</p> <p>23 20,000 into Pepsny's account on July 26, 1996. Do</p> <p>24 you know what that amount would have been for?</p> <p>25 A. I don't.</p>

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<p style="text-align: right;">Page 146</p> <p>1 Q. I'm sorry, did I say Pepsny? I meant 2 Grieser. Sorry. I apologize? 3 A. I don't know what the payment was for. 4 Q. Would this suggest to you that there was 5 any kind of fraud going on with the closing attorney? 6 MR. HAYES: Objection. You can answer. 7 A. In light of all the facts I know today 8 it doesn't look appropriate, but I don't know what 9 those charges or those funds are being exchanged for. 10 That's probably not the right word, given for. 11 Q. The -- hold on a second. The invoice 12 marked Nations-17, which reflects \$974 for the 13 premium and the fee, the premium for the policy and 14 the fee for the closing service letter, do you know 15 where those funds would have come from to pay for 16 that fee and premium? 17 A. It should have been part of the -- it 18 should have been paid out of the closing. 19 Q. But where did the money come from? 20 A. I would have to see the HUD. I assume 21 the bulk of the funds came from the funding lender. 22 I don't know if the borrower contributed funds or 23 brought funds to the closing. 24 Q. Has Nations ever acknowledged its role 25 in the -- let me back up. As you know Walsh</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. Have you read any memoranda 2 concerning -- aside from anything from counsel? 3 A. I've read counsel's memoranda. I 4 haven't read anything internal. 5 Q. Is the company's position still that it 6 played no role in the fall-through of that merger? 7 A. Yes. 8 Q. I think I'm almost done. Can I just 9 talk to Amy real quick? 10 (A recess takes place.) 11 DIRECT EXAMINATION BY MS. WAGNER: 12 Q. Back on the record. Miss Sullivan, if 13 you can take a look at exhibits 7, 8, 14 and 10. 14 A. Yacker-7? 15 Q. No, not those, Nations-7, 8, 14 and 10. 16 While Dan is looking for that, if you can look at the 17 very top there's a bar code. Do you know what that 18 bar code is? 19 A. No. 20 Q. You don't know if that's a bar code 21 that's placed on there by the county when it's 22 recorded? 23 A. I was looking to see if any of the 24 numbers match up. I don't know. It would be my 25 guess but I don't know.</p>
<p style="text-align: right;">Page 147</p> <p>1 Securities was going to merge with a company called 2 RBMG and that merger fell through. Has Nations ever 3 acknowledged its role or accept any responsibility in 4 the fall-through of that merger? 5 A. No, not to my knowledge. 6 Q. Has that ever been a discussion, an 7 internal discussion with anyone within Nations or 8 Fidelity? 9 MR. KOTT: Objection. 10 MR. HAYES: Make sure in responding to 11 that question, Miss Sullivan, there are no 12 discussions with attorneys. 13 Q. Absolutely. 14 A. Has there ever been a discussion? 15 Q. Have you ever talked to anybody within 16 Nations and Fidelity aside from counsel about the 17 Walsh Securities RBMG merger? 18 A. I'm -- certainly I've read all the 19 memoranda from counsel. Have I discussed it with 20 other claims attorneys or counsel in the office? 21 Q. Anyone. 22 A. I mean certainly I guess it's been 23 discussed. I don't know that I can recount 24 conversations, and I am not handling the claim so I'm 25 not...</p>	<p style="text-align: right;">Page 149</p> <p>1 (A discussion takes place off the 2 record). 3 Q. Back on the record. Miss Sullivan, 4 looking at Nations-7, 8, 14 and 10, would you agree 5 that the deed from Citicorp to Cristo was filed 6 first, recorded first? 7 A. Yes. 8 Q. And then the deed from Cristo to Leodis, 9 which is Nations-8, was recorded second? 10 A. Yes. 11 Q. And then the deed from Leodis to Leodis 12 and Capital Assets in a 60/40 split was recorded 13 third? 14 A. Yes. 15 Q. And then the mortgage between Leodis and 16 National Home Funding was recorded last? 17 A. Yes. 18 Q. So I'm trying to recall your testimony 19 earlier. Were you saying that it was an issue if the 20 deed from Leodis to Leodis and Capital Assets in a 21 joint interest in a 60/40 would create an issue as 22 far as potentially the -- an issue as to the 23 mortgage? 24 A. Yes. 25 Q. Hypothetically, if these were actually</p>

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<p>1 filed in order and the 60/40 deed was filed after the</p> <p>2 mortgage, would that also create an issue as to the</p> <p>3 mortgage?</p> <p>4 A. No. The issue I'm thinking of, my issue</p> <p>5 is that the -- you have now got someone who is a</p> <p>6 grantee or an entity that's a grantee that did not</p> <p>7 join in making the mortgage. If it was recorded</p> <p>8 afterwards and the party in title made the mortgage</p> <p>9 you wouldn't have an issue.</p> <p>10 Q. So you could still -- even though you</p> <p>11 had a mortgage you can still convey away 60 percent</p> <p>12 of the interest in your property?</p> <p>13 A. Sure.</p> <p>14 Q. Going to Nations-9 and Nations-19, it</p> <p>15 was the two title commitments. The one without the</p> <p>16 little -- without the capital A and the one with the</p> <p>17 capital A. And if you can turn back to schedule B-1,</p> <p>18 the requirements set forth in both of the exhibits</p> <p>19 that Mr. Mcc asked you about before.</p> <p>20 Assuming these commitments were both</p> <p>21 issued on the same date shouldn't both commitments</p> <p>22 reflect what's is listed in Nations-9 under number 1C</p> <p>23 that there needs to be a deed from the sheriff of</p> <p>24 Monmouth to Bristol Oaks?</p> <p>25 A. I would think that that should be a</p>	<p>1 need a deed from the sheriff. Somehow it has to get</p> <p>2 between the sheriff and Cristo. So if it's going to</p> <p>3 Bristol Oaks and then Bristol Oaks to Cristo, which I</p> <p>4 guess is what the commitment is calling for, that</p> <p>5 would be okay.</p> <p>6 Q. And so shouldn't that also be clear in</p> <p>7 the B-1 in Nations-19 because there it only says:</p> <p>8 Deed made my Cristo Property to the proposed insured.</p> <p>9 It doesn't say anything about the sheriff or Bristol</p> <p>10 Oaks.</p> <p>11 A. I would think it should be included in</p> <p>12 there.</p> <p>13 Q. And then going back to Nations-9,</p> <p>14 further down, letters J, K, L, M, N, O and P also</p> <p>15 have additional requirements that would impact the</p> <p>16 title. Correct?</p> <p>17 A. Yes. If these were issued on the same</p> <p>18 date, yeah.</p> <p>19 Q. And so if this were issued on the same</p> <p>20 date, those items should also have been listed under</p> <p>21 Schedule B-1 that was in Nations-19?</p> <p>22 A. It would have been a lien on the</p> <p>23 property as of that date. Coastal is trying to set</p> <p>24 it up as a subsequent transaction, as if these are</p> <p>25 being taken care of, but to accurately reflect the</p>
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<p>1 requirement.</p> <p>2 Q. Also under D, that there should be a</p> <p>3 deed made -- I'm sorry.</p> <p>4 A. I'm a little confused myself as to where</p> <p>5 Bristol Oaks fits into it, but it's missing the</p> <p>6 first -- and then Bristol Oaks -- I'm not sure if</p> <p>7 they actually were in the chain or they weren't and</p> <p>8 there was just errors in the recital, but title has</p> <p>9 to get out of the Marjorie Hawk and I am assuming</p> <p>10 that went through foreclosure and you would need a</p> <p>11 sheriff's deed to come out to somebody in the chain.</p> <p>12 Q. I agree it's confusing. So also you</p> <p>13 would need -- what it has under D is: Deed made my</p> <p>14 Bristol Oaks, LP to the proposed insured named in</p> <p>15 Schedule A. So what you're saying is there needed to</p> <p>16 be some sort of deed going to the proposed insured</p> <p>17 before the proposed insured could actually sell it to</p> <p>18 Mr. Leodis?</p> <p>19 A. Well, you need a deed into the party</p> <p>20 listed at the -- being vested in title.</p> <p>21 Q. You're looking at Nations-19?</p> <p>22 A. Okay.</p> <p>23 Q. On Nations-9 we needed to first get the</p> <p>24 deed into Cristo's name. Correct?</p> <p>25 A. Cristo is the proposed insured so you</p>	<p>1 record as of that date, those were liens on the</p> <p>2 property and could be reported or should have been</p> <p>3 reported in that, but -- you know.</p> <p>4 Q. And isn't the reason that they should</p> <p>5 have been reported is because this title commitment</p> <p>6 that is Nations-19 that's going to -- for the</p> <p>7 proposed insured of George Leodis, that this title</p> <p>8 commitment is going to his closing attorney and</p> <p>9 possibly the lender, and they would need to know what</p> <p>10 requirements need to be met prior to the closing?</p> <p>11 A. Yeah. And I'm not sure when these were</p> <p>12 delivered. That assumes they're delivered to these</p> <p>13 parties on the same date and that these issues</p> <p>14 haven't actually been accomplished between delivery</p> <p>15 of this commitment and delivery of that commitment,</p> <p>16 the second commitment.</p> <p>17 Q. Okay. Mr. Agel had actually testified</p> <p>18 that at some point in time Mr. Kane instructed him to</p> <p>19 start preparing the second title commitments that he</p> <p>20 ended up using the capital A for to be clean title</p> <p>21 commitments that would be provided to the lender so</p> <p>22 that the lender wouldn't see all of the requirements</p> <p>23 that needed to be met. And in your mind if that was</p> <p>24 accurate testimony that would be a problem. Right?</p> <p>25 A. I mean, obviously it facilitated Kane's</p>

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1 fraud if that's what was being done and they weren't
2 actually taken care of under these liens.

3 Q. Okay. I don't have anything else.
4 (The deposition is concluded at 4:15
5 p.m.)
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1 CERTIFICATE.
2

3 I, JANET BAILYN, a Notary Public and
4 Certified Court Reporter of the State of New Jersey,
5 do hereby certify that prior to the commencement of
6 the examination DONNA SULLIVAN was duly sworn by me
7 to testify the truth, the whole truth and nothing but
8 the truth.

9 I DO FURTHER CERTIFY that the foregoing
10 is a true and accurate transcript of the testimony as
11 taken stenographically by and before me at the time,
12 place and on the date hereinbefore set forth.

13 I DO FURTHER CERTIFY that I am neither a
14 relative nor employee nor attorney nor counsel of any
15 of the parties to this action, and that I am neither
16 a relative nor employee of such attorney or counsel,
17 and that I am not financially interested in the
18 action.
19
20

21 Notary Public of the State of New Jersey
22 My commission expires February 3, 2013
23 License No. XI00970
24
25

Date: October 3, 2011

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